

**Minutes of the Veneta Planning Commission and
Joint Meeting with Veneta City Council
March 7, 2005**

COUNCIL

PRESENT: Mayor T. J. Brooker, Darrell Carman, Thomas Cotter, Marion Esty, and Fred Miller

PLANNING

COMMISSION: Chairman Jim Bruvold, James Dean, James Eagle-Eye, and Lily Rees

ABSENT: Commissioner Len Goodwin

OTHERS: Ric Ingham, City Administrator; Sandra Belson, Planner; Margaret Boutell, Community Services Director; Brian Issa, Planning Assistant; Sheryl Hackett, City Recorder; Jerry Elliott, City Engineer; Scott Goebel; Grant Holman; Mike Shippey; Matt Warren; Kathy Slaven; and Mona Linstromberg;

James Bruvold called the Veneta Planning Commission to order at 7:02 p.m.

I. PUBLIC COMMENT:

Scott Goebel; Goebel Engineering and Surveying

Mr. Goebel said he represents Mr. Gansen, the developer of the Cottage Court Subdivision. Mr. Gansen has been trying to satisfy condition #15 of the final order issued for Cottage Court and has been unable to find a company that will issue a bond for a ten year period for the maintenance of the detention pond. He said the City has been unable to assist Mr. Gansen because they do not have a mechanism in place for that type of bonding. Mr. Gansen checked with other municipalities and has provided a copy of a maintenance agreement used by the City of Eugene which he would like to propose as an alternative to the bond. Mr. Goebel said the advantage of a maintenance agreement is that it is attached to the property as a deed restriction and does not expire at the end of ten years. In the event the property owner fails to do the maintenance, the agreement allows the City to do the work and then place a lien the property. Mr. Goebel asked the Planning Commission to amend that condition of approval.

Sandra Belson said the final plat has been approved for signature subject to meeting all the conditions of approval; however, the applicant has been unable to meet condition #15. The condition was a special condition placed on the approval at the request of the Planning Commission. The applicant has asked the Planning Commission to authorize staff to work with the developer to finalize an agreement that could replace the bond.

Community Director Margaret Boutell said the maintenance agreement could include very specific language about exactly what type of maintenance needs to take place.

By consensus, the Planning Commission felt they needed more information and they asked staff to make a recommendation for them to consider at a future meeting on how the condition could be amended to assure the detention pond will be maintained.

Sandra explained that until the Planning Commission approves an amended condition of approval, the developer still has the option of meeting the condition by providing a ten

year maintenance bond.

Grant Holman; 87763 Oak Island Drive; Veneta, OR

Mr. Holman said it appears that the wetland restoration on lot 9 of Coven Estates has not happened. In response, City Administrator Ric Ingham said the fill has been removed and a wetland specialist approved the seeding that was done in the fall of last year. He said the dry weather has slowed the vegetative growth.

Mr. Holman said he also has a concern about the detention pond in the second phase of the Perkins Country Estates Subdivision. He said the pond is holding a substantial amount of water that will provide a breeding ground for mosquitos.

Mona Linstromberg; 87140 Territorial Road; Veneta, OR

Ms. Linstromberg provided the City with a copy of the policy the City of Eugene uses to control the length of their meetings. She suggested that the City consider adopting a similar policy.

Ms. Linstromberg said she thinks all of the applications for the Slaven Subdivision should be considered at the same meeting to assure that all of the facts are considered. She said making a decision about the tentative plan could limit the restoration of the wetlands; therefore, she felt the site plan for the wetlands should be considered at the same time as the subdivision. She also asked that the public be provided notice of the comment deadlines for all of the proposed applications.

II. APPROVAL OF MINUTES: February 7, 2005

MOTION: James Dean made a motion to approve the minutes of February 7, 2005 as presented. Jim Bruvold seconded the motion which passed with a vote of 4-0.

III. JOINT PUBLIC HEARING: Veneta City Council & Veneta Planning Commission

- A. Call Veneta City Council to order: Mayor Brooker called the Veneta City Council to order at 7:31 p.m.
- B. SLAVEN - Variance to Veneta's Wetland Protection Ordinance (Veneta Municipal Code Chapter 18.10) to allow crossing a delineated wetlands to extend Oak Island Drive from the north end off of Cheney to the south end off of Jake Street (V-1-05) Assessor's map 17-05-31-33, tax lot 4500
 - 1. Open Hearing: Chairman Jim Bruvold opened the public hearing at 7:31 p.m.
 - 2. Declaration of Conflict of Interest or Ex-Parte Contacts: None
 - 3. Staff Report (Sandra Belson)
The applicant has submitted a request for approval of a tentative subdivision which, as Mona Linstromberg pointed out, requires approval of several types of applications. The property is 3 acres in size and is bisected by a wetland. The subdivision includes the connection of Oak Island Drive

from Cheney to Jake Street. The applicant originally presented a plan which terminated Oak Island Drive from both ends so it would not cross the wetlands. The Planning Commission asked the applicant to redesign the subdivision to include the Oak Island crossing as shown on the Veneta Transportation System Plan and the City Engineer recommended looping the water line. Both of those design changes require a variance to Veneta's Wetland Protection Ordinance. To approve a variance, the Planning Commission and City Council need to make a joint determination that public need outweighs the adverse impacts to the wetlands.

After the close of the joint public hearing, the Planning Commission will be considering applications for the subdivision which require Planning Commission action only.

Sandra presented the Planning Commission and Council with a supplemental memorandum to the staff report and proposed final order.

Sandra said the wetlands on the applicant's property has been degraded over time by grading of the ditch and deepening the channel. The delineated wetlands, which has the concurrence of the Division of State Lands, extends beyond the top of the bank. The applicant proposes to install a buried arched culvert which includes some soil at the bottom of the culvert so vegetation can grow. As part of the development process, the degraded wetlands will be restored. Restoration includes matching the grade at the bottom of the channel to the upstream and downstream channels. Restoration also includes planting wetland plants.

Sandra said the Planning Commission and Council need to determine if the proposed culvert is enough to mitigate the negative impact of the Oak Island crossing.

Sandra recommended the following amendments to the conditions of approval: Condition #1 to be more specific as to what period is considered the wet time of the year, condition #2 to address Mona Linstromberg's comments regarding site plan review for enhancement of the wetlands and to require more detailed information for grading and stormwater treatment.

If the Planning Commission and City Council feel the arched culvert proposed by the applicant is sufficient, they can amend the findings and condition of approval #3 to support that. In response to a question from Mayor Brooker, Sandra said the natural bottom culvert was recommended by staff, it was not the design proposed by the applicant.

In response to a question, Jerry Elliott said a bridge would lay over the same alignment as the culvert. A framed culvert requires setting footings but does not require actual digging in the stream. The type of culvert proposed by the applicant requires digging in the channel and then laying soil at the bottom of the culvert. Jerry said he could not assess which type of culvert would be better in terms of wildlife functions. He said the

wetlands on the applicant's property is already degraded and the soil will have to be moved to do the restoration work.

In response to a request to compare the volume of water that could flow under a bridge vs a culvert, Jerry Elliott said a bridge could handle a little more volume but probably less than 10% more.

James Dean and Lily Rees said they would prefer a bridge crossing.

In response to a question, Sandra said the wetland crossing in the Trinity Terrace Subdivision will be an open bottomed boxed culvert because that is what the applicant proposed and the City approved it.

Sandra said the first decision that needs to be made is whether or not Oak Island should cross the wetlands. If they agree the crossing should be allowed, the next decision is what type of crossing.

Lily Rees said public good should not just be limited to streets and utilities. She said water quality, wetland quality, and wildlife habitat should also be considered.

4. Public Testimony:

Matt Warren; Poage Engineering; 1990 Oak Street; Eugene, OR

Mr. Warren said they considered a bridge crossing; however, deemed it to be too expensive. He said arched culverts have been approved by the State of Oregon and are more economical to construct. He said another thing to consider is future replacement costs for the City. He said the culvert being proposed by the applicant would be buried and would have a natural soil bottom. He said a bridge or culvert would both have limited support for vegetation. The wetlands on the property is currently degraded and the applicant proposes to enhance the wetlands on both sides of the culvert and the full length of the property which will improve water quality, increase the aesthetic value, and enhance the habitat for wildlife. As part of the restoration, the profile of the ditch will be reshaped which should increase the flow area and allow a larger volume of water to remain within the banks. Mr. Warren said in designing the subdivision, the applicant has been working closely with the Veneta Planning Department.

Carla Clark; 87846 Oak Island Drive; Veneta, OR

Ms. Clark said when fill was placed on the site of the proposed subdivision it caused some flooding on her property. She asked if the wetland restoration work will include removing the fill which is now higher than her property.

In response, Matt Warren said the streets in the proposed subdivision will be designed to drain into the new subdivision.

Joan Mariner; 25712 Cochran Court; Veneta, OR

Ms. Mariner said she agrees that the applicant began trenching the ditch

prior to the City adopting a wetland protection ordinance; however, the applicant has continued to trench after the adoption of the ordinance. When making their decisions, she asked the Planning Commission and Council to keep in mind the fact that the landowner has avoided enforcement action and the City has been accommodating the land owner. She said the wetland ordinance has a penalty for people who violate the ordinance. She said the Slaven Estates project has already benefitted substantially by escaping the penalties. Ms. Mariner said she is concerned that the Slaven development could set precedent with prospective developers who destroy or degrade wetlands prior to submitting applications. She said if Veneta's wetland protection ordinance is to be taken seriously, the City needs to be sure that the Slaven property is an isolated exception in escaping enforcement penalties.

Mona Linstromberg; 87140 Territorial Road; Veneta, OR

Mona Linstromberg said the degradation of the wetlands on the applicant's property was significant both prior to and after enactment of the Wetland Protection Ordinance. She said the wetlands has been redirected and channelized; however, the property along the ditch is still a wetlands. She said Roy and Slaven Drives also intrude on the wetlands. She said she applauds the City's proposed alternative to allow narrower than standard streets; however, the impact of those streets on the wetlands needs to be considered. She said she and the Neighbors for Responsible Growth feel a bridge is preferable to the proposed culvert.

Karen Wickam; 25263 E. Bolton Road; Veneta, OR

Ms. Wickam said the wetlands on the Slaven property is at the beginning of the significant wetlands that provides an east/west pathway to the lake. She said whatever happens on the Slaven property could set precedent for how the rest of that wetland corridor will be valued. She said Veneta has a very impressive wetland protection ordinance which calls for minimizing the degradation and destruction of significant wetlands and for the conservation and protection of wetlands. She said the ordinance tells its residents that the City intends to protect and value its natural resources. She said the tree removal and wetlands in the Trinity Terrace Subdivision are no longer protected or vibrant. She said public good needs to be weighed from both sides and variances should not be easy to get. She said over the years developers have been granted variances and allowed to destroy the wetlands. Although the Slaven parcel of land is fairly small, she said it needs to be factored in to the protection of Veneta's valuable resources.

In rebuttal to the public comments, Matt Warren said the applicant is trying to provide a good development and will be spending a lot of money to enhance a large area of wetlands.

In response, Ms. Clark said the enhancement proposed by the applicant should be negated by the fact she ignored the wetlands and added fill to the property, causing problems for the neighbors.

5. Questions from the Veneta City Council and Planning Commission:

In response to a question, Jerry Elliott said the applicant's engineer will need to submit a drainage plan that shows how the drainage will work and not adversely impact the upstream Cottage Court Subdivision. Whatever type of crossing the applicant's engineer will have to submit plans that meet performance criteria for drainage.

James Dean said he thinks there is a potential violation of the ordinance for dredging that may have occurred after 2000.

In response, Sandra Belson said City staff visited the site with representatives from DSL and the Corp of Engineers. She said staff was unable to make a determination as to exactly when the dredging was done and the other agencies chose not to make a determination. She said it wasn't brought to the City's attention until a year after it happened.

James Dean said he thinks if the dredging was done improperly, that should be corrected before the City approves an application. In response, Sandra said staff felt that it would be better to do the construction and then restore the wetlands rather than require restoration that would need to be disturbed later.

Ric said it would be difficult for the City to build a case without the support of the state and federal agencies that regulate wetlands.

Community Services Director Margaret Boutell said either way the end result the City would like to see is a functioning wetland. She said that is what everyone wants and that is what is being proposed.

Mona Linstromberg said the offer to restore the wetlands is significant; however, just because the state or federal agencies do not take enforcement action it does not prevent the City from taking action under its own ordinance. She said she thinks the City is being proactive in requiring the restoration as part of the subdivision proposal; however, she feels the applicant should acknowledge that the City is being very accommodating.

In response to a question from Darrell Carmen, Sandra said the applicant is not proposing to mitigate the wetlands, they are proposing to restore the wetlands to the delineated boundary that was approved by the Division of State Lands.

Mayor Brooker said he understands the applicant's concern with the cost of a bridge vs a culvert; however, he thinks the decision should be based on which type of crossing will function the best once it is in place.

James Eagle-Eye pointed out that the degradation of the wetlands was done by the applicant. He said he felt the City should be consistent and should require the same type of crossing they would require if the wetlands had not

been degraded. He said once the wetlands are restored they will be protected like any other wetland.

Darrell Carman said the City required the open boxed culvert for Trinity Terrace because it would not disturb the wetlands. He said that is not the case with the Slaven property because the wetlands has to be disturbed to do the restoration. He said unless it can be shown to function better than what has been proposed, he does not see the advantage of requiring the boxed culvert. He said the crossing impacts about 10% of the wetlands and if it only increases the function by 1% he doesn't think that is proportional to ten times the increase in cost.

In response to a question about which type of culvert would function the best, Jerry Elliott said he did not have that data. He said culverts serve as both drainage and wildlife corridors. When the City was required to install a 36" culvert instead of an 18" culvert for the 8th Street crossing he asked the permitting agencies for data to support the requirement for a larger culvert but he didn't get a response.

Mike Shippey; 27661 Crow Road; Veneta, OR

Mr. Shippey said he delineated the wetlands on both the Cottage Court and Slaven properties so he is familiar with that segment of the drainage system. He said the question about whether or not a bridge or culvert functions the best cannot be quantified. In terms of the disturbing a wetlands, he said a bridge would have less impact.

Mrs. Slaven said the ditch dries up in the summer.

James Dean said he feels public good should take into consideration aesthetics and he thinks a bridge would be better in that respect. In response, Mayor Brooker said aesthetic could be subjective and that it couldn't be addressed without seeing a design.

Lily Rees said she thinks they need more information and she would like to keep the record open and postpone making a decision. In response, Sandra said the issue seems to be whether or not a bridge or a culvert would be preferred and she is not sure staff could provide them with any more information.

In response to a question from James Eagle-Eye about the impact the water line crossing will have on the wetlands, Sandra said the line would be installed prior to the restoration work and would be installed two to three feet below the water line. In response to a question from James Eagle-Eye about the possibility of having to disturb the wetlands to make repairs, Jerry Elliott said the life expectancy of the water line is 60 to 100 years. Repairs could be made by boring under the wetlands.

6. Close of Public Hearing: Chairman Jim Bruvold closed the public hearing at 9:03 p.m.

7. Deliberation and Decision:

Mayor Brooker said he thinks it has been well established that the variance meets the burden of public good need by providing better transportation facilities for enhanced mobility and providing a connecting utility system by allowing the looping of the water lines. He said he feels it will also provide the best use of buildable lands. He said the proposal will also restore wetlands which will enhance water quality and provide better stormwater drainage. He said he is in favor of granting the variance; however, there is still the question as to whether the crossing should be the culvert proposed by the applicant or a bridge. He said he does not want to place an undue financial hardship on the property owner; however he is more inclined to recommend a bridge crossing.

Thomas Cotter said he is in favor of street connectivity with a bridge design.

Fred Miller said he agrees there is a need for the street crossing and although he personally likes the bridge better, he said he thinks they should allow a culvert because the experts have said there will be no difference in how the wetlands function or the wildlife would respond.

Darrell Carman said he does not think there is any reason to require the applicant to spend 10 times as much to build a bridge as opposed to a culvert because he has not heard any evidence that the wetlands will function any better with a bridge than the culvert. He said he does not feel aesthetically there is anything wrong with a vegetative bank next to a road.

James Eagle-Eye said the City has made strides in protecting its wetlands and he thinks they need to be consistent with what would be required if the wetlands had not been degraded.

Lily Rees said she thinks a culvert would require more fill to be brought into the wetlands than the bridge. She said she also thinks it would be a higher functioning wetland with a bridge.

In response to a question about the amount of fill, Jerry Elliott said he could not answer without seeing the final design for the stream bed and wetland restoration.

James Dean and James Eagle-Eye felt an open bridge would not intrude into the wetlands the way a culvert would. James Eagle-Eye said he agreed with the public need for a road to cross the wetlands but agreed with the staff report that states a natural open bottom crossing can provide the most benefit to the wetlands.

James Dean said he thinks a bridge is the best alternative for both the wetlands and aesthetics. He said he would also like to see the water line placed in a sleeve so future repairs could be made without disturbing the restored wetlands.

James Eagle-Eye said in keeping with established policy the water line is not as big of an issue as the street crossing. Fred Miller said they should not require more in the way of a pipe as they have required for other crossings.

Lily Rees said she felt they can ask for higher standards when a developer is requesting a variance.

Thomas Cotter said they would already be adding a lot of extra costs for a bridge and he thinks the standard technology for the water line should be accepted.

Jim Bruvold said he agrees with the public need for the crossing but he has not heard any difference between the bridge and culvert. He said he thinks they should take into consideration the cost to the developer and the fact the developer will be remodeling the entire piece of property.

Sandra Belson said the final order will need to be amended and asked for direction as to how to draft the findings. She said she is not confident that she could provide more information as to the impact each design would have on the wetlands. She asked if she is correct in understanding they want to reject the proposal for an arched culvert with fill at the bottom.

Darrell Carman and Fred Miller said they do not see a reason to require an open bottom culvert when the experts cannot say it will make a difference.

Thomas Cotter said the City has already set a policy and preference for open bottom culverts. In response, Darrell Carman said the reasons for requiring the open bottom culvert were completely different. He said the intent was to avoid disturbing existing wetlands. In this case, the wetlands are already disturbed.

Thomas Cotter said he thinks a bridge or open bottom culvert would be better for the wetlands after they are restored.

In response to a question regarding whether or not an open bottom structure would be better than a culvert for the restored wetland area, wetland consultant Michael Shippey said there are a lot of variables. He said if the area is being spanned rather than filled it would probably be better but either way the crossing would be shaded and the amount of vegetation would probably be about the same. He said there would be little difference for wildlife migration, especially since the stream is dry during the summer months.

Jerry Elliott said he will review whatever crossing is approved. He said he is not aware of any objective standards for crossing designs. He said the minimum criteria is that a pathway for wildlife is required and the crossing needs to carry a ten year storm without impacting the conditions upstream. He said he does not have information regarding the difference in wetland

values under a bridge vs a culvert; but, either one would provide a wildlife corridor.

Mayor Brooker said they have no expertise on whether or not a bridge design will enhance water quality or wildlife. He said they need to come to a decision and give staff direction.

James Dean pointed out that on page 7 of the staff report it says an arched pipe culvert is acceptable from an engineering standpoint but a bridge is preferable to enhance the wetland. James Dean said he could support a bridge crossing but not a closed culvert.

MOTION: Darrell Carman made a motion to approve the variance as requested by the applicant. Mayor Brooker seconded the motion.

Discussion: In response to a question, Darrell Carman clarified that his motion is to approve the variance with the culvert proposed by the applicant and not an opened bottom culvert.

Vote: The motion failed with a vote of 2 in favor (Carman & Miller) and 7 opposed.

MOTION: James Dean made a motion to adopt variance V-1-05 to allow the connection of Oak Island Drive to be constructed within a wetland subject to a condition of approval that a bridge be constructed. Lily Rees seconded the motion.

Discussion: James Eagle-Eye suggested changing the condition to require an open bottom structure rather than a bridge.

MOTION: James Dean amended his motion to change the word "bridge" to "open bottomed structure". Lily Rees seconded the motion as amended. The motion passed with a unanimous 9-0 vote.

Staff was directed to prepare amended findings and Final Order to be adopted at a special meeting at 6:45 p.m. on March 14, 2005.

- C. Adjourn Veneta City Council: Mayor Brooker adjourned the Veneta City Council at 9:55 p.m.

After calling for a short recess, Chairman Jim Bruvold called the Veneta Planning Commission back to order at 10:06 p.m.

IV. PUBLIC HEARING & LIMITED LAND USE DECISIONS:

- A. SLAVEN ESTATES - Tentative Subdivision Plan (S-3-04) & (CUP-1-05)

North end of Oak Island Dr. off of Cheney and south end of Oak Island Dr. off of Jake

Assessor's map 17-05-31-33, tax lot 4500

Sandra Belson advised the Planning Commission that the applicant would like the opportunity to re-design the subdivision and apply for a variance to allow private driveway access. Planning Commission Chairman Jim Bruvold postponed the public hearing until April 4, 2005 at 7:00 p.m.

V. DELIBERATION & DECISION:

- A. VIESCAS - Tentative Land Partition (M-4-04) with variance to allow panhandle lots (V-3-04) and a Conditional Use Permit for development within the Greenway Subzone (CUP-5-04)

Assessor's map 17-05-31-30, tax lot 2800

Staff advised that Commissioners James Eagle-Eye and Lily Rees listened to the tape recording of the February 7, 2005 public hearing.

Planning Assistant Brian Issa reminded the Planning Commission that deliberations on the Viescas partition had been continued from the February 7, 2005 meeting. At their February 7, 2005 meeting the Planning Commission listened to public testimony. A member of the public requested the record be held open an additional seven days for written comments. Written comments received after the close of the hearing were marked as Exhibit F and submitted to the Planning Commission. The applicant was also asked to submit additional information on the capacity of the existing culvert and its ability to support fire trucks. As a condition of approval, the applicant will be required to apply for a variance to the wetland ordinance if the culvert needs to be replaced.

In response to a question from James Bruvold, Brian said wetland consultant Nancy Holzhauser determined that the 8' buffer between the driveway and wetland was sufficient.

In response to a question from James Eagle-Eye, Sandra Belson said the existing driveway will have no increased impact on the wetlands; however, if the culvert needs to be replaced there will be an impact and a variance would be required.

MOTION: James Dean made a motion to approve the Viescas tentative land partition M-4-04 subject to the conditions of approval listed in the proposed final order. Lily Rees seconded the motion which passed with a unanimous vote of 4-0.

MOTION: James Eagle-Eye made a motion to approve variance V-3-04 for reduced lot frontage to allow panhandle lots, subject to the seven conditions of approval listed in the proposed final order. Lily Rees seconded the motion which passed with a unanimous vote of 4-0.

MOTION: James Dean made a motion to approved the request for development within the Greenway Subzone, CUP-5-04. James Eagle-Eye seconded

the motion which passed with a unanimous vote of 4-0.

James Dean said he wanted to state for the record that he still has a problem with how the panhandle lots are configured. James Eagle-Eye said he does not prefer panhandle lots; however, he thinks there is no other option for this particular piece of property.

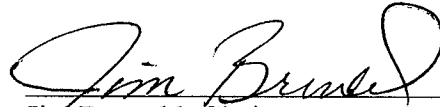
VI. OTHER:

A. Storm Water Capital Improvement Plan (CIP)

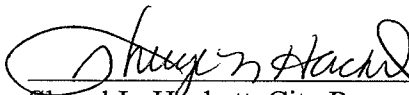
Due to the late hour, review of the CIP as postponed until Monday, March 14, 2005 at 6:30 p.m.

VII. ADJOURN:

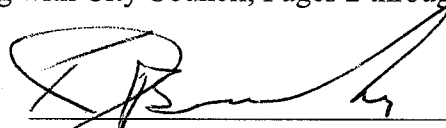
Chairman Jim Bruvold adjourned the Veneta Planning Commission at 10:46 p.m.


Jim Bruvold, Chairman

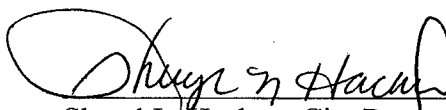
ATTEST:


Sheryl L. Hackett, City Recorder

City Council approval of minutes for Joint meeting with City Council, Pages 2 through 10.


T.J. Brooker, Mayor

ATTEST:


Sheryl L. Hackett, City Recorder
(minutes prepared by SL Hackett)